IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2659 of 1996
With
CIVIL APPLICATION No. 5441 of 2007
In
SPECIAL CIVIL APPLICATION No. 2659 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MT GEORGE - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR SK JHAVERI for Petitioner in SCA No.2659/96 & CA No.5441/07
MS NISHA PARIKH AGP for Respondents SCA No.2659/96 & CA No.5441/07

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 12/04/2007

COMMON ORAL JUDGMENT

1. Mr.S.K. Jhaveri, learned counsel for the petitioner and Ms.Nisha Parikh, learned Assistant Government Pleader for the respondents – State, in both the matters.

2. Learned counsel for the petitioner submits that certain

parcels of land were allotted to the petitioner as licensee on payment of licence fee. At the request of the petitioner, lease-cum-licence was renewed but in the year 1994, when the petitioner wanted a renewal for 10 years, the Collector issued a notice and required the petitioner to show cause as to why the lease be not terminated. Mr.Jhaveri, learned counsel for the petitioner submits that not only that the petitioner even had made representation to the authorities that the land given to him be permanently settled in his favour on payment of premium etc. but even that application was rejected. His submission is that on one side the State government, by issuing advertisement, is inviting applications for settlement and regularization of the encroachment and at the same time, is trying to evict all such persons who are in settled possession under a valid document and is not settling the property in their favour.

3. The petitioner has filed Civil Application No.5441 of 2007 submitting inter-alia that since after filing of the writ application, the State Government has regularized some of the encroachment, therefore, present is a fit case wherein the petitioner should be allowed to make a representation to the State Government for settlement of

the property.

4. Ms.Nisha Parikh, learned Assistant Government Pleader for State on the other hand submits that in the present matter, as the final order has already been passed, grant of liberty in favour of the petitioner would mean quashing of the orders passed by the Collector and the State Government, therefore, liberty to renew the prayer which was earlier rejected, cannot be granted. She, however submits that if, in accordance with the advertisement and policy of the State, the petitioner can make an application, then, he can certainly make an application.

5. Mr.Jhaveri, learned counsel for the petitioner submits that in view of the stand taken by the State Government, the petitioner be permitted to withdraw the writ petition enabling the petitioner to make an application to the State Government for settlement in view of the latest policy of the Government.

6. The petitioner is permitted to withdraw the writ petition. The petition stands dismissed as rejected with the observations that if the law permits the petitioner to make an application to the State Government or any other competent authority / officer, then, the petitioner

would be entitled to make such an application-cum-representation. The petitioner may make a representation and if he obtains order in his favour, then, that would be the end of the matter, but, in case, the petitioner is unable to secure any order in his favour, then, on or before 31/10/2007, the petitioner shall vacate the land in question and to that effect, he shall submit an under taking before this Court in this very proceedings within a period of 15 (fifteen) days from today, in case, such an undertaking is not filed before this Court, this order shall lose its efficacy. Rule is discharged. Interim relief, if any, is vacated. No costs.

7. In view of the aforesaid order, Civil Application No.5441 of 2007 is rejected. No costs.

(R.S. GARG, J.)

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